

USER MANUAL FOR BUYING AND SELLING AN OUTFITTER BUSINESS



STATE OF IDAHO

OUTFITTERS & GUIDES



In cooperation with United States Forest Service and Bureau of Land Management

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INTRODUCTION

The IOGLB regulates the outfitting and guiding industry in Idaho for the explicit purpose of safeguarding the health, safety, and welfare of the public. By law, the IOGLB serves other key missions, including promoting public recreation and tourism, and helping to conserve the state's fish and wildlife resources.

The outfitting industry plays an important role in the recreational and tourism industry in Idaho. Providing outdoor recreation services and opportunities to the public is a challenging profession with many potential rewards and lots of hard work for those who choose to pursue it. One of the principle ways a person can get into the business today is by purchasing an existing outfitter business or through inheritance. This manual has been developed to assist during this important process both existing outfitters interested in selling or transferring their outfitter business, and buyers intending to apply for an outfitter's license for the business they purchase.

PURPOSE

This manual has been prepared for outfitters interested in the sale or transfer of an existing outfitter and guide business where there has been no break in continuity of the permit or license, and the agency analysis indicates continued outfitter operations are appropriate.

Changes in operating area, activities or business and outfitter's nonuse require alternative processes outlined below and additional Board and agency considerations. This manual provides general requirements and a step-by-step process to assist the outfitter with a sale or transfer. Additional manuals are available to assist the buyer of the business (i.e. "User Manual for New Outfitter Applications" or "User Manual for Outfitter Amendments, Major, Minor & One Time Controlled Hunts"). A more detailed set of rules is available on the IOGLB Website at www.oglb.idaho.gov. More complete instructions regarding Federal permits are available from the local offices.

RELATIONSHIP TO OTHER MANUALS

IOGLB maintains manuals that provide specific information on:

— New Outfitter Applications —

— Outfitter Amendments Major, Minor & One Time Controlled Hunts —

This handbook has been developed from the Outfitters and Guides Act as amended under Idaho Code, Title 36, Chapter 21, and applicable sections of Idaho Code, Title 6, and Chapter 12. This handbook does not replace or supplant the aforementioned code. IOGLB maintains an up to date set of statutes and administrative rules on its website at www.oglb.idaho.gov

TABLE OF CONTENTS

1.0	GENERAL INFORMATION.....	1
1.1	Outfitter.....	1
1.2	Designated Agent.....	1
1.3	Guiding In Idaho.....	1
1.4	Qualifications.....	1
1.5	License Requirements And Restrictions.....	1
1.6	Compliance With Laws	2
1.7	Federal Permits	2
1.8	Outfitter License Tenure	3
1.9	Outfitter Waiting List.....	3
1.10	Applying For A New Outfitter Application.....	3
1.11	Changes To An Outfitters Operating Area Or Activities.....	3
1.12	Privately Held Lands	3
2.0	GENERAL ISSUES WITH BUYING OR SELLING AN OUTFITTER BUSINESS	4
2.1	Selling an Outfitting Business	4
2.2	Individuals Authorized to Sell Business:.....	4
2.3	Buying an Outfitting Business.....	4
2.4	An Outfitter License is not Transferable	4
2.5	Transfer of Title	4
2.6	Change in Control.....	4
2.7	Non-Use	5
2.8	Contractual Restrictions.....	5
2.9	Default Sale.....	5
3.0	INSTRUCTIONS FOR SELLING AN OUTFITTERED BUSINESS	6
3.1	Determine Application Type.....	6
3.2	General Processing Timeline	6
3.3	Sale or transfer of an existing business on public lands	6
3.3.1	Exhibit 1	6
3.4	The Sale and transfer of the Outfitter business on State managed land.....	8
3.4.1	Exhibit 2	8
3.5	The Sale and transfer of the Outfitter business on Privately Held Lands	10
3.5.1	Exhibit 3	10
4.0	APPLICATION INSTRUCTIONS & MATERIALS.....	11
5.0	EXAMINATION, REFERENCE REQUIREMENTS AND EVALUATION OF THE OUTFITTER APPLICATION.....	13
6.0	IOGLB FEES.....	13
7.0	LICENSING	14
	APPENDIX I	15
	DEFINITIONS.....	156
	ATTACHMENT 1	17
	CHECK LIST FOR BUYING AND SELLING AN OUTFITTER BUSINESS.....	18
	Additional List of form to be filled out at time of Sale or Amendment.....	19, 20, 21

1.0 GENERAL INFORMATION

1.1 Outfitter

An Outfitter is any individual, firm, partnership, corporation, or other organization or any combination thereof who offers professional services in this state and who provides facilities, equipment, and services as advertised or as agreed upon between the outfitter and the client.

An outfitter license is not required of any individual, group, corporation, or club, which limits its services to a membership or an organization that does not offer services to the general public. A group, corporation, or club formed to solicit participation from the general public and to provide services on a guided and/or paid basis beyond a sharing of expenses shall be required to be licensed.

Currently, IOGLB has a moratorium on licensing waterfowl or upland game (except forest grouse, chukar, and turkeys, under certain circumstances). Wagon and sleigh rides are exempt by statute from IOGLB licensing. Nonprofit organizations may be exempt by statute from IOGLB licensing after their application has been reviewed and they are determined to be a qualified nonprofit organization. However, these activities do require a federal permit or state authorization.

1.2 Designated Agent

When the applicant is a corporation, firm, partnership, or other organization or combination thereof, a supplemental form shall be completed and it shall designate at least one (1) designated agent who is a qualified outfitter who shall be responsible for the outfitting business. The outfitter business and designated agent(s) must each complete an application and obtain licenses.

1.3 Guiding In Idaho

To guide in Idaho, a person must be licensed as a guide, and must be employed by an outfitter. A sole proprietor or designated agent license includes a guide license with the license fee if the applicant possesses the qualifications of a guide as determined by the IOGLB.

A guide license shall specify all activities for which a guide is qualified to guide and shall indicate the outfitter(s) who signed the guide license application as the employing outfitter(s); and identify such limitation(s) or qualification(s) as may be imposed by the IOGLB in issuance of said license.

1.4 Qualifications

An applicant for an outfitter license must meet the following criteria:

Age: Be at least eighteen (18) years of age.

First Aid: An outfitter who wishes to guide must hold a current first aid card and be aware of general emergency procedures.

Knowledge: Have extensive, first-hand knowledge of the area and/or waters and/or activities involved in his proposed operation. When the application includes big game hunting, he must know the habits of the game sought and hunting techniques that are successful in the area, be able to care for meat and trophies, and be familiar with Idaho Department of Fish and Game (IDFG) and firearm laws.

Training: Have completed and demonstrated to the IOGLB proper training for the activity for a guide license.

1.5 License Requirements and Restrictions

Qualifications: The qualification(s) of an outfitter or guide licensee shall be determined in accordance with Idaho Code, Title 36, Chapter 21, and Rules promulgated there under.

License: An outfitter must be in possession of a license before commencing outfitting, guiding, or acting in any capacity as an outfitter. **The submission of a license application does not fulfill this requirement.**

Operating Area & Activities: An outfitter's license shall have set forth upon its face or an attachment thereto a specific operating area(s) and the specific activities including client and harvest limitations or restrictions

which the licensee is authorized to conduct outfitter services. The outfitter is limited to the operating area and activities on the license and operating area description.

Amendments: IOGLB may consider amending these operating and areas and activities upon receipt of a formal amendment submitted by the outfitter. An outfitter amendment manual is available from IOGLB. The approval process is similar to the application process.

Qualified: In order to operate, all outfitters must be qualified to guide or have in their employment a licensed guide or a designated agent who is licensed to guide. Guides must be qualified for the activities for which the outfitter is licensed.

Review: An outfitter's qualifications to guide shall be reviewed by the IOGLB and, if approved, the outfitter will be issued both an outfitter guide license at no additional fee they qualified for.

Guide Restrictions. A guide shall only guide for those activities in any operating area (and on any water) for which the employing outfitter is licensed.

Limitation: A limitation in number of clientele served, operating area, or any other criteria affecting the safety, health, and welfare, of the public or viability of the fish, wildlife, or other natural resources shall be imposed in licensing where such limitation is deemed necessary by the Board.

1.6 Compliance with Laws

All licensees must comply with all local, state, and federal laws. They must at all times cooperate fully with private landowners, public land management agencies, and/or stockmen and respect their rights and privileges. They must advise clients of all applicable conservation and game laws and must not condone or willfully allow their violation. They must report all violations to a law enforcement officer. In instances where violations of local, state, or federal laws have occurred, such violations will be handled in accordance with the following discretionary criteria:

Violations: An applicant who has never held an outfitter or a guide license and who has been convicted of a violation of local, state, or federal law may be required to appear before the Board. Each such conviction will be appraised, and a decision to approve or deny the application will be based upon the nature and the circumstances of the violation.

Examination by IOGLB: When a license holder is convicted of a violation of local, state, or federal law, the IOGLB will examine the nature of the violation and the circumstances to determine whether a hearing shall be held. The potential outcome could involve restricting, suspending or revoking the outfitter or guide license, or imposing an administrative fine for any violation. Any such violator may be required to appear before the IOGLB before a license will be issued for the following year.

Notification: If you have received a conviction, withheld sentence, forfeiture or denial, you must attach an explanation, including the year and location of such, to the application.

Note: For the purpose of licensing, the term "conviction" shall mean a finding of guilt [etc. from 36-2113 (b)].

1.7 Federal Permits

Outfitters wishing to operate on federally managed lands or waters must have a current state license issued by IOGLB and a current federal permit issued by the appropriate federal agency in order to operate. Typically, federal permits are issued by federal agencies following the issuance of an IOGLB license. IOGLB coordinates license activities with federal agencies but cannot control federal permitting processes.

The USFS Special Use permit is issued as a temporary or priority permit as determined by the authorized officer. Temporary permits may be reissued as priority use after demonstration of their acceptable performance for a minimum of two years. The issuance of an initial priority permit is a rare occurrence.

An annual BLM Special Recreation Permit is issued for one or more years before issuing a multi-year permit. A permit for up to five years with annual validation may be issued after acceptable performance under an annual permit.

1.8 Outfitter License Tenure

Tenure in any outfitter's operating area ceases with the expiration of his outfitter license at the end of the annual license period which is currently March 31. Priority in the operating area may be maintained by submitting a complete application for a license for the ensuing license period before the expiration date of the current license. If the IOGLB does not receive a completed application within ninety (90) days following the end of the license period, the license is relinquished. This date is currently June 30.

1.9 Outfitter Waiting List

When there is competitive interest or there are more outfitter applications than the maximum number of available opportunities, the Board will maintain a waiting list per Rule 25.01.010. When or if an available opening occurs and public announcement is made, the Board shall use the waiting list for direct notification to interested parties who will then be required to apply and go through the competitive process to be considered for the opportunities.

1.10 Applying For A New Outfitter Application

Applicants can buy an existing outfitting business but must apply for a new outfitter license if not already licensed as an outfitter. See User Manual for New Outfitter Applications.

1.11 Changes To An Outfitters Operating Area Or Activities

Outfitters may request changes to their existing business. See User Manual for Outfitter Amendments, Major, Minor and One Time Controlled Hunts.

1.12 Privately Held Lands

The IOGLB recognizes the rights of private landowners and business owners and, at the same time recognizes the needs and interest of Idaho sportsmen. The Board feels that it must do all it can to help promote the outfitting industry in the State of Idaho and, when appropriate IOGLB encourages private land owners to consider providing public access to their privately owned property for public outdoor recreation activities. As a state agency responsible for regulating outfitting and guiding opportunities in the state and protecting the health, safety, and welfare of the public, the Board believes that it has the responsibility, to help outfitters service the public without allowing outfitters to monopolize public access or public availability. The IOGLB has determined the conditions outlined below, that it must take as a state agency, in licensing outfitters to provide public opportunities on private lands.

- The proposed outfitting opportunity should not restrict public access to public lands accessible only through the private lands that are being proposed for outfitting.
- The proposed outfitter operating area on private lands has the capacity to offer adequate hunting, fishing or recreation opportunities. Typically land based operations and terrain not conducive to the proposed activity may not be considered.
- There should not be fish or wildlife issues identified by IDFG that cannot be reconciled by the private landowner and outfitter to the satisfaction of the licensing board.
- Private land owners holding IDFG Shooting Preserve Permits who wish to provide outfitted or guided services must obtain and maintain appropriate IOGLB license(s).
- Outfitter licenses will be issued to only the applicant applying for the license. The landowner(s) will have no controlling interest in the license unless they are the applicant(s).
- The proposed activities on the private land are not in conflict with other outfitters in the area.
- Once licensed, the outfitter must maintain with the Board a record of all lands that are going to be outfitted during a given year. Changes must be recorded by submitting revised legal descriptions, maps, and private landowner sign-off. IOGLB will review operating areas and will make a determination whether an amendment must be submitted. Please refer to the conditions as provided above.

2.0 GENERAL ISSUES WITH BUYING OR SELLING AN OUTFITTER BUSINESS

2.1 Selling an Outfitting Business

Outfitters may sell their business. However, if only a portion of the business is proposed for sale, the remaining portion(s) must all be viable as determined by IOGLB and FS or BLM when applicable. Remaining business portions must also be determined to be acceptable. An outfitter selling a portion of their business must be prepared to submit an outfitter minor amendment request along with a Proposed Sales Agreement and accompanying material, and the buyer must submit either a new outfitter application or a major amendment application.

2.2 Individuals Authorized to Sell Business:

- The Sole Proprietor or the Designated Agent of a licensed outfitter must initiate the sale process by notifying the Federal Agency and the Board of the pending sale prior to the sale.
- If the outfitter business is a sole proprietor, then the owner, who is the actual outfitter, must initiate the process and be involved in the completion of the sale of the business.
- If an outfitter business is a corporation, partnership or LLC rather than Sole proprietor, the designated agent is responsible for completing the sale of the business and is responsible to see that any sale and any business conducted by the outfitting company is handled properly.

2.3 Buying an Outfitting Business

The following are some factors, other than those outlined in this manual, that individuals interested in buying into the outfitting industry in Idaho should consider.

- Idaho allocates big game tags in many portions of the state, and without having allocated tags your big game operations could be limited.
- It is important for the buyer to understand resource issues within the operating area of the business that they will be purchasing. To understand these issues, it is important that the buyer meet with both the land management agency and the IDFG who manage these resources that are so important for outfitter operations to be successful.
- Existing resource and/or use concerns and the possibility of non-use.

2.4 An Outfitter License is not Transferable

The acquisition of an outfitting business from a licensed outfitter does not require the IOGLB to transfer the operating area(s) of the licensee to the purchaser or to issue an outfitter license. However, an applicant who has negotiated a purchase agreement with a licensee may be given priority for a license if all other outfitter license requirements are met.

License and permits have no sale value. FS or BLM and IOGLB may request a list of tangible assets (things of material value) and intangible assets (non-material, i.e. client lists etc.) and their associated value. This review will ensure that the business assets are part of the sales agreement.

2.5 Transfer of Title

A transfer of title to the business covered by the federal permit or a state license shall result in termination of the permit and the license. The party who acquires title to the business must submit an application for a permit and a license. The issuance of a new permit and a state license to the party who acquires title to the business shall be at the sole discretion of the federal agency authorized officer and to the IOGLB respectively. Federal policy and procedures require that the authorized officer shall determine that the applicant meets requirements before signing a final Land Manager's Statement.

2.6 Change in Control

- Controlling interest means the entity in control of the business or corporation.

- If the permit holder and licensee is a corporation, change of control means the sale or transfer of a controlling interest of the corporate stock.
 - NOTE: The sale or transfer of a controlling interest of the corporate stock is considered the same as a business sale. In this type of business sale, the corporate stock shares are the tangible assets being sold and are evaluated as such.
- If the licensee is a partnership, change of control means the sale or transfer of a controlling interest or the greater of the assets.
- If the licensee is an individual, change of control means the sale or transfer of the business to another party. Change in control also means a change in the business entity from individual to a partnership or corporation, etc. where the original individual no longer owns a majority of the business.
- If the cumulative transfer of stock shares, or other interest, by a corporation, partnership or sole proprietor over a period of time results in changing the controlling interest, the new controlling interest shall be required to apply for a new license.
 - NOTE: An exception to this may be the death of an outfitter. In this case, the heir(s) must apply for a minor amendment and will be given priority consideration for the license.

Any change in control of the business entity may result in cancellation of the state license and the possible termination of the federal permit. Prior to the exchange, the party acquiring control of the business must submit an application for a permit with the federal agency and/or state license with IOGLB. The applicant may not operate until the federal permit and state license have been issued.

2.7 Non-Use

IOGLB shall review all full or partial business sales for non-use. Those sales of business fitting the criteria of non-use may be denied or, in some instances, the Board may approve the sale with the stipulation that use must be established within the following two years or the area or activity may be removed from their license. With the partial sale of a business, an area or activity may be excluded from the sale unless the result of the sale is viable for both the buyer and seller.

The definition of non-use can be found in the IOGLB Rule Book on the IOGLB website at www.oglb.idaho.gov.

2.8 Contractual Restrictions

- The Board does not recognize contractual restrictions placed upon a license.
- The seller cannot place operational restrictions on a license. For example, limit the number of guides or clients.
- The seller cannot contractually require the licensing board to re-license the seller in case of default.
- The contract shall not reflect “ownership” of the license. The license cannot be sold or transferred.

2.9 Default Sale

In the case of a default sale where the selling outfitter finances the sale, the Board is under no obligation to return the license to the selling outfitter should the business fail. However, the Board has consistently, in the past, recognized default sales contracts and has made every effort to re-license the selling outfitter. To do this, the selling outfitter can petition the Board to reapply and be re-licensed for the operating area that was sold. If the sale was completed, or where no sales contract exists, the original seller does not have priority for re-licensing and the area is addressed as a vacant area.

3.0 INSTRUCTIONS FOR SELLING AN OUTFITTED BUSINESS

3.1 Determine Application Type

Outfitters must determine the context in which the sale is being submitted to IOGLB. The procedures, materials, and the application review and selection processes are considerably different dependant upon the agency jurisdiction. When the sale involves the USFS and BLM, follow Exhibit 1. When the sale involves state lands, follow Exhibit 2 and when the sale involves private lands, follow Exhibit 3. An outfitter not following these steps in these exhibits may cause a slowing of the licensing and permitting processes. If the businesses proposed operating area include more than one land manager, the process will need to be initiated with each affected agency.

3.2 General Processing Timeline

Simple sales and transfers may take three (3) months to complete. Complex sales and transfers may take additional processing time.

3.3 Sale of an existing business on public lands

3.3.1 Exhibit 1

Step	Seller Process	Action	Background Info.
1	To initiate the sale or transfer of a business, the seller notifies IOGLB, FS, or BLM in writing of the pending sale by submitting a proposed revision to the operating plan or a new operating plan and a letter stating the intent to sell a portion of the existing business or the entire business. This will begin the process.	When the Forest Service (FS) or Bureau of Land Management (BLM), Idaho Department of Lands (IDL) or Idaho Fish and Game (IDFG) receives a written proposal regarding the sale or transfer of a business, or a portion of a business, the FS or BLM will provide a copy of the proposal to IOGLB and may arrange a meeting between the interested parties and IOGLB.	The preferred first point of contact for the sale or transfer of a business is the appropriate federal agency. They will arrange a working meeting either in person or over the phone with IOGLB. The IOGLB, FS or BLM will screen these preliminary proposals to make sure they are realistic and acceptable.
2	FS, Department of Lands or BLM and Fish and Game meet with Buyer and Seller. Buyer should be prepared to describe the specifics of their proposal. Both buyer and seller submit a separate Land Manager's Statement (OG-6) to the permitting agency with the top portion complete, i.e. name, address, license #, dba, and a summary of the action(s) requested. If there is a partial sale the seller needs to submit an (OG-6) as well. If there are parallel processes occurring such as a new application, major amendment etc., clarify at this time and submit appropriate paperwork. (See New Application Manual and Outfitter Amendment Manual). At this time, the seller, the buyer (if identified), FS or BLM and IOGLB will identify any proposed changes to the terms of the license, the FS special use permit or BLM special recreation permit, and the operating	The FS, IDL, IDFG or BLM will check the appropriate box in the preliminary section of the Land Manager's Statement (OG-6) to indicate their intentions, i.e. whether to consider issuing a FS special use permit or BLM special recreation permit based on the proposed changes to permitted activities and areas should the applicant be qualified and submit to IOGLB. Note: If the final proposal involves a change in operating area, activities, business operations, or a redistribution of operating area (i.e., boundary adjustment), the IOGLB, FS, and BLM will follow the process outlined in the Outfitter Amendment Manual accessible on the IOGLB web site.	The Land Manager's Statement (OG-6) provides the mechanism for the federal agency to inform IOGLB of whether the proposal is suitable for processing as a viable sale. It will also be important to work together to reconcile differences regarding currently licensed and permitted activities, operating areas, and areas and activities in nonuse on federal land.

Step	Seller Process	Action	Background Info.
	plan.		
3	<p>The seller submits an IOGLB relinquishment form (OG-13) and possibly an Outfitter's Amendment Request form (OG-9) for the outfitter license to IOGLB.</p> <p>The buyer submits a new outfitter license application or an Amendment Request form (OG-9) to IOGLB.</p> <p>Concurrently, if appropriate, the seller submits a request to the Forest Service for termination of current special use permit or Seller submits a request to BLM for transfer of current permit.</p> <p>Buyer submits a permit application to the FS or BLM.</p>	The IOGLB, FS, IDFG, IDL or BLM will share the appropriate forms with each other.	<p>Licenses are not transferable; therefore a buyer must apply for a new license.</p> <p>The IOGLB relinquishment form ensures that both the seller and buyer are in final agreement on the transfer of the business.</p> <p>Forest Service permits are not transferable. BLM permits may be transferred at the discretion of the authorized officer. The buyer must submit an application to the FS or BLM for agency permits.</p>
4	Buyer and Seller shall submit sales agreements to the IOGLB and FS or BLM.	The FS or BLM and IOGLB, IDFG or IDL review applications and bonafide documents showing conveyance of a substantial portion of the business assets to determine validity of the sale. This review will verify that the license or permit has no sale value.	License and permits have no sale value. Any sale of a business must include tangible assets. FS or BLM and IOGLB shall request a list of tangible (things of material value) and intangible assets (non-material i.e., client lists, etc.) and their associated value. This review will ensure that the business assets are part of the sales agreement.
5	Both Buyer and Seller may expect contact by the IOGLB, FS or BLM to clarify items in the sales package.	<p>The FS, IDFG, IDL or BLM will determine the buyer's ability to conduct a financial and technically capable operation and determine whether or not a permit will be issued.</p> <p>The appropriate agency will check the appropriate box in the final section of the Land Manager's Statement and submit to IOGLB.</p> <p>Also, IOGLB will independently determine the buyer's ability to conduct a viable operation and determine whether or not a license will be issued. See IOGLB Rules.</p> <p>The appropriate agency and IOGLB jointly notify the seller and buyer of the results of their determination.</p>	The FS or BLM and IOGLB will review financial and technical information provided by the buyer. This review ensures that the buyer can provide needed public services. After the review the FS or BLM will inform IOGLB whether the applicant will be issued a permit. IOGLB does a similar review.
6	Assuming positive determinations, all application materials must be on file prior to approving a sale. For	<p>If a license/permit is to be issued the following will take place:</p> <p>All required applicant submittals</p>	

Step	Seller Process	Action	Background Info.
	completion of this associated process, please refer to “New Outfitter Applications Manual” or “Outfitter Amendments Manual, Major, Minor and One time controlled hunts.”	are on file. The IOGLB will issue an Outfitter License. Appropriate agency will issue a Special Use Permit or Special Recreation Permit.	

3.4 The Sale of the Outfitter business on State managed land.

3.4.1 Exhibit 2

Follow the same outlined procedures when working with Idaho Department of Lands, Idaho Department of Parks and Recreation or Idaho Department of Fish and Game rather than the federal agencies.

Step	Seller Process	Action	Background Info.
1	To initiate the sale or transfer of a business, the seller notifies IOGLB, and state land management agency in writing of sale by submitting a proposed revision to the operating plan and a letter stating the intent to sell a portion of or the entire business. This will begin the process.	When the IOGLB receives a written proposal regarding the sale or transfer of a business, or portion of a business, the IOGLB will refer the proponent to the State land management agency. When the state land management agency receives a written proposal regarding the sale or transfer of a business, or a portion of a business, the state land management agency will provide a copy of the proposal to IOGLB and will arrange a meeting between the interested parties and the IOGLB.	The preferred first point of contact for the sale or transfer of a business is the appropriate State land management agency. They will arrange a working meeting with IOGLB. The IOGLB and state land management agency will screen these preliminary proposals to make sure they are realistic and acceptable.
2	IOGLB and state land management agency meet with Buyer and Seller. Buyer should be prepared to describe the specifics of the proposal. Both buyer and seller submit separate Land Manager’s Statement (OG-6) to the state land management agency with the top portion complete, i.e. name, address, license #, dba, and a summary of the action(s) requested. If there are parallel processes occurring such as a new application, major amendment, etc., it needs to be clarified at this time and appropriate paperwork submitted. (See New Application Manual and Major Amendment Manual). At this time the seller, the buyer (if identified), State land management agency and IOGLB will identify any proposed changes to the terms	State land management agency will indicate by checking the appropriate box in the preliminary section of the Land Manager’s Statement (OG-6) their intention to consider issuing a lease agreement, including proposed changes to permitted activities should the applicant be qualified and submit to IOGLB. Note: If the final proposal involves a change in operating area, activities, business operations, or a redistribution of operating area (i.e. boundary adjustment), the IOGLB and State land management agency will follow the process outlined in the Outfitter Amendment Manual Handbook accessible on the IOGLB web site.	The Land Manager Statement (OG-6) provides the mechanism for the State land management agency to inform IOGLB of whether the proposal is suitable for processing as a viable sale.

Step	Seller Process	Action	Background Info.
	of the license, recreation permit, and the operating plan and will work together to reconcile differences regarding current activities and operations on state land.		
3	<p>The seller submits an IOGLB relinquishment form (OG-13) and possibly an Outfitter's Amendment Request form (OG-9) for the outfitter license to IOGLB.</p> <p>The buyer submits a new outfitter license application or an Amendment Request form (OG-9) to IOGLB.</p> <p>Concurrently, if appropriate, the seller submits a request to the state land management agency for termination of a lease agreement.</p> <p>Buyer submits a lease agreement application to the state land management agency.</p>	The IOGLB and state land management agencies will share the appropriate forms.	<p>Licenses are not transferable; therefore a buyer must apply for a new license.</p> <p>The IOGLB relinquishment form ensures that both the seller and buyer are in final agreement on the transfer of the business.</p> <p>The buyer must submit an application to the appropriate State land management agency for agency permits.</p>
4	Buyer and Seller shall submit sales agreements to the IOGLB and State land management agency.	State land management agency and IOGLB review applications and bonafide documents showing conveyance of a substantial portion of the business assets to determine validity of the sale. This review will verify that the license or permit has no sale value.	Licenses and permits have no sale value. Any sale of a business must include tangible assets. State land management agency and IOGLB shall request a list of tangible and intangible assets and their associated value. This review will ensure that the business assets are part of the sales agreement.
5	Both buyer and seller may expect contact by the agencies to clarify items in the sales package.	<p>The IOGLB will determine the buyer's ability to conduct a financial and technically capable operation and determine whether or not a permit will be issued.</p> <p>The state land management agency will check the appropriate box in the final section of the Land Manager Statement and submit to IOGLB.</p> <p>The IOGLB will independently determine the buyer's ability to conduct a viable operation and determine whether or not a license will be issued. See IOGLB Rules.</p> <p>The IOGLB will notify the seller and buyer of the results of their determination.</p>	The IOGLB and state land management agency will review financial and technical information provided by the buyer. This review ensures that the buyer can provide needed public services. After the review, the state land management agency will inform IOGLB whether the applicant will be issued a lease. IOGLB does a similar review.

Step	Seller Process	Action	Background Info.
6	Assuming positive determinations, all application materials must be on file prior to approving a sale. For completion of these associated processes, please refer to “New Outfitter Applications Manual” and “Outfitter Amendments Manual, Major, Minor and One time controlled hunts.”	<p>If a license/permit is to be issued the following will take place:</p> <p>All required applicant submittals are on file.</p> <p>The IOGLB will issue an Outfitter License.</p> <p>State land management agency will issue a Lease agreement.</p>	

3.5 The Sale of the Outfitter business on Privately Held Lands

3.5.1 Exhibit 3

Step	Seller Process	Action	Background Info.
1	To initiate the sale or transfer of a business, the seller notifies IOGLB and the private landowner in writing of the sale by submitting a proposed revision to the Operating Plan and a letter stating the intent to sell a portion of or the entire business. This will begin the process.	When the IOGLB receives a written proposal regarding the sale or transfer of a business, or portion of a business, the IOGLB will refer the proponent to the private landowner to request written permission of the private landowner and/or a Private Landowner’s Statement (OG-6b).	All outfitters operating on privately held land and waters must have written permission of the landowner.
2	Buyer and Seller meet with landowner to discuss sale and get written permission and completion of the Private Landowner’s Statement along with all pertinent leases, agreements, deeds and titles for the potential buyer.		The Private Landowner’s Statement form provides the mechanism for the private landowner to inform IOGLB of whether the proposal is agreeable.
3	Buyer and seller may be asked to meet with IOGLB. Buyer and Seller shall submit sales agreements to the IOGLB.	Buyer and seller may be asked to meet with IOGLB and any parallel processes occurring such as new applications, major amendments, etc. need to be clarified at this time and appropriate paper work submitted (See New Application Manual and Amendments Manual).	
4	<p>Seller submits a IOGLB Relinquishment Form (OG-13) and possibly an Outfitter’s Amendment Request form (OG-9) for the outfitter license to IOGLB</p> <p>Buyer submits a new outfitter license application to IOGLB and a completed Private Landowner’s Statement or written permission for the buyer to operate on the private land, all pertinent leases, agreements, deeds and titles.</p>	The IOGLB review applications and bonafide documents showing conveyance of a substantial portion of the business assets to determine validity of the sale. This review will verify that the license or permit has no sale value.	<p>Licenses are not transferable; therefore a buyer must apply for a new license. The IOGLB relinquishment form ensures that both the seller and buyer are in final agreement on the transfer of the business.</p> <p>Licenses and permits have no sale value. Any sale of a business must include tangible assets. IOGLB shall request a list of tangible and intangible assets and their associated value.</p>

Step	Seller Process	Action	Background Info.
5	Assuming positive determinations, all application materials must be on file prior to issuing a license and permits. For completion of these associated processes, please refer to “New Outfitter Applications Manual” or “Outfitter Amendments Manual, Major, Minor and One Time Controlled Hunts”.	Assuming positive determinations and all required applicant submittals are on file. The IOGLB will issue an Outfitter License.	
6	License issued.	All applicable licenses will be mailed. Upon request licenses can also be faxed. Please supply OGLB with a fax number.	

4.0 APPLICATION INSTRUCTIONS & MATERIALS

Application forms and a current copy of the Idaho Outfitters and Guides Law and Licensing Board Rules may be obtained from IOGLB’s website: www.oglb.idaho.gov .

Or

By contacting IOGLB at 1365 North Orchard, Room 172, Boise, ID 83706, (208) 327-7380.

The application must be prepared using the appropriate forms outlined below. Be sure to provide all required information on each form, using additional sheets if necessary. Please be especially careful to be sure that the information is legible, concise and to the point, and is factual. It is a felony to provide false information in a state or federal application.

As Part of the application to IOGLB, the applicant must complete either an OG-1 or an OG-2.

OG-1 – Sole Proprietor

A type of business option where the outfitter is the sole entity. Applicants may automatically receive a guide license, if they intend to guide, and are qualified, at no additional charge. A designated agent is optional but not required.

OG-2 – Corporate, firm, partnership, or other business entity

A type of business option where the outfitter is incorporated. The applicant must also license someone to serve as designated agent. Corporate or partnership applications must include a copy of the Articles of Incorporation filed with the Secretary of State of Idaho or a signed partnership agreement.

OG-3 – Designated Agent

Applicants submitting an OG-1 may elect to hire someone to act as designated agent for their business with an Outfitters Amendment Request (Please refer to user manual for Outfitters Amendments major, minor & One Time Controlled Hunts Outside of Operating Area) Applicants submitting an OG-2 form must hire someone to act as designated agent for their business. An OG-3 form must be submitted at the time of initial application.

A Designated Agent may receive a guide license at no additional charge if he intends to guide and is qualified.

OG-4 – Guide Applications

In order to be licensed, sole proprietors or corporations must have someone licensed to guide. If the sole proprietor or a designated agent is not qualified to guide, then a separate guide license application must be submitted and approved prior to the outfitter license being issued.

In addition to the guide application, please submit the appropriate training forms listed below.

Guide applications may be submitted once the applicant is licensed as an outfitter using this form.

OG-5 – River Boating Application

All applications dealing with river activities (float boating, power boating) must identify on this form the proposed river section, lake or reservoir where they hope to operate. This form also includes instructions with regard to OG-11 and OG-17.

OG-6 – Land Manager’s Statement or OG-10 Private Land Manager’s Statement

Proposals and completed applications require permission or approval from the land or resource manager/owner, such as the USFS, BLM, Idaho Department of Lands, private property owners, etc.

All applications require an OG-6 or OG-10. There are two stages to utilizing this form that are explained in actions outlined in appropriate exhibits above.

OG-7 – Operating Plan

One of the most significant elements of the application process.

We recommend providing as much detail as possible, using additional pages if necessary (see Operating Plan below).

OG-8 – Financial Statement

Financial status information is a critical part of the overall license proposal. Personal or corporate financial statements are acceptable in lieu of this form.

OG-9 – Outfitter’s Amendment Request

This form is necessary when there is a proposed license or permit change. See “User Manual for Outfitter Amendments, Major, Minor and One Time Controlled Hunt.”

OG-11 – Boat Training Log

River Training Log for Guides. This form must accompany the OG-1, OG-3, or OG-4 form when the applicant wishes to guide using a power or float boat. Please refer to OG-5 for instructions.

OG-12 -- Performance Bond

A Performance Bond at a minimum of \$10,000 is required to be provided prior to final approval and issuance of the outfitter license. It isn’t necessary to include this certification when the initial application is submitted. OGLB will let you know when the form is needed.

<u>OG-13 – Relinquishment Form</u>	<p>This form is only used during a sale or a transfer of a business.</p> <p>It is executed by the seller and is required to be submitted prior to final approval. By executing this form, the seller acknowledges he will no longer have any interest in the business once the sale is completed.</p> <p>Not always applicable.</p>
<u>OG-14 – Document Release Authorization</u>	This form authorizes IOGLB to share information with other agencies needed to process the application.
<u>OG-15 – Certified Hunting Guide Training Form</u>	Training form for guides. This form must accompany the OG-1, OG-3, or OG-4 form when the applicant wishes to act as a hunting guide.
<u>OG-16 – Certified Snowmobile Guide Training Form</u>	Training form for guides. This form must accompany the OG-1, OG-3, or OG-4 form when the applicant wishes to act as a snowmobile guide.
<u>OG-17 – Request for Boater’s Validated Training Form</u>	This is an alternative training form which can be used for guides in certain instances in place of the OG-11. Please refer to OG-5 for instructions.
<u>OG-18 – 500-Mile Log</u>	Log of River experience of at least 500 miles as a commercial float boat guide.

- The use of an assumed business name, or “dba,” requires that name to be filed with the Secretary of State of Idaho in the State Capitol building in Boise, web site: www.sos.idaho.gov, or by calling (208) 334-2301. A conformed copy of that certification must be provided to the IOGLB along with the license application. That name may not be changed without doing an amendment.
- The Contract of Sale/Sales Agreement, must be submitted along with the initial application materials when the applicant is associated with the sale of a business. (Please see Outfitters Amendment Manual step 4.) Note: When developing the sales or contract agreement, do not refer to the transaction as “selling or transferring the outfitter license.” Outfitter, Designated Agent, and Guide licenses are not transferable. A better alternative would be “selling the outfitter business.”
- Maps and ownership documents must be submitted when proposing to provide outfitter and guide services on private land. These documents include:
 - providing a location map identifying the new areas requested for licensing and names and locations of camps to be used,
 - a copy of the lease agreement(must include a legal description of the property),
 - a plat or survey map identifying boundaries of the new operating area.
 - a written area description explaining where the operating area boundary’s area

It isn’t necessary to include liability or bonding certifications or annual license fees until after the Board has completed its review and reached a decision to approve the application.

5.0 EXAMINATION, REFERENCE REQUIREMENTS AND EVALUATION OF THE OUTFITTER APPLICATION

Examination, reference requirements and evaluation of the outfitter application will pertain to new applications and are explained in the User Manual for New Outfitter Applications.

6.0 IOGLB FEES

Current fees are listed on the IOGLB website at www.oglb.idaho.gov If there is a question about which fees are applicable, the IOGLB office should be contacted.

Once the sale is approved, if the applicant is a new outfitter the applicant must submit an application fee at the time the application is submitted to IOGLB. Any unused portions of the application fees shall be returned to the applicant after the buy/sell process is completed.

Prior to issuance of an outfitter license, an applicant will be required to submit the annual license fee. In addition, all designated agents and guides must submit applications and the applicable fees that are required for their licenses. Note: Applications for Designated Agent and Guide licenses not essential or required to operate may be submitted as needed.

If a partial sale is approved, the seller must submit a major outfitter's amendment request form (OG-9) with the applicable fee. An additional fee will be required to amend each designated agent license.

Payment must be in the form of a certified check, cashier's check, money order, outfitter's company check, or credit card.

Outfitters are expected to pay other fees as required by respective agencies; i.e., federal outfitter permit fees, and fees for IDFG licenses and tags.

7.0 LICENSING

The Executive Director may approve all routine license applications with concurrence from the Board. Typically, a new outfitter application with extenuating circumstances will be deferred to the Board for review and approval when more than one (1) applicant submits a complete application in response to a prospectus. A hearing typically will be held to decide the successful applicant.

In order to be licensed, some final information needs to be submitted including:

- Adequate liability insurance for the outfitter is required to be submitted prior to license issuance. This coverage must be in the minimum aggregate of \$300,000 for bodily injury or death, in the minimum of \$100,000 for vehicles per occurrence.
- Performance Bond (OG-12) at a minimum of \$10,000 is required to be provided prior to final approval and issuance of the outfitter license. It isn't necessary to include this certification when the initial application is submitted. A suggested form for this purpose is provided. Insurance agency documentation is also acceptable.
- Relinquishment form (OG-13), if applicable.
- Annual License Fees.

APPENDIX I DEFINITIONS

Application - A packet of documents required by agency to determine eligibility for license or permit.

Amendment - Minor or major change to an existing license.

Bonafide - Certified authentic.

BLM - United States Department of Interior, Bureau of Land Management.

Board - The five (5) member Idaho Outfitter and Guide Licensing Board. Four (4) members appointed by the governor, and (1) member appointed by the Idaho fish and game commission.

Completed Application -An application submitted for Board consideration, which contains all of the material required to be submitted by the Board for that license category.

Corporation, LLC, firm or partnership - Type of business entity license. Requires a designated agent license.

Director - The Executive Director of the IOGLB.

Designated Agent - One (1) or more individuals who meet all qualifications for an outfitter's license, who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed by the Board to operate as an outfitter and who shall, together with the licensed outfitter, be responsible and accountable for the conduct of the licensed outfitter's operations.

DBA - Doing Business As, assumed business name.

Exam - An open book test that a sole proprietor or designated agent is required to pass in order to qualify for a license.

Financial Statement - Statement of financial status information, personal or corporate.

FS -Department of Agriculture, United States Forest Service

Guide - any natural person who is employed by a licensed outfitter to furnish personal services for the conduct of outdoor recreational activities directly related to the conduct of activities for which the employing outfitter is licensed.

License - Legal authorization from IOGLB to operate as an outfitter, designated agent or guide in Idaho.

IOGLB - Idaho Outfitters and Guides Licensing Board. A state agency comprised of a five member Board who serve on a part-time basis, an Executive Director and various staff persons.

Land Manager Sign Off Sheet - A form that must be filled out and signed by the land managing agency or private landowner. This form must accompany the application.

List of Assets - List of items being sold with the business.

LLC - Limited Liability Company

Major Amendment - All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request, i.e. change in licensed operating area, licensed or permitted activities, business operations, or a redistribution of operating area (boundary adjustment).

Minor Amendment - All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request i.e. name changes, change in DBA, removing activity or an area, when with a sale, guide amendments, designated agent amendments.

Negligible Use – As determined by the demand on the activities as reviewed by the Board. The Board will consider extenuating circumstances, i.e. acts of nature, amount of use, the type of use in the area; or demand on outfitted use on area or activity.

New Opportunity - A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past.

Nonuse - See Definitions, Zero (0) use and Negligible Use.

Operating Plan - Applicant must submit a detailed plan on how they intend to operate. The plan should include campsites, user days, number of trips per year, etc.

Outfitter - An outfitter is an individual, firm, partnership, corporation, or other organization or any combination thereof who offers professional services in this state and who provides facilities, equipment, and services as advertised or as agreed upon between the outfitter and the client.

Outfitter License - A license issued by the Board to an individual, partnership, corporation, or other duly constituted organization to conduct activities as defined in Section 36-2102(b), Idaho Code. The conduct of an outfitted operation on any land(s) is not authorized unless signed permission, a permit, or a lease is obtained from the land owner(s), or their agent(s) and filed with the Board.

Prospectus – If a new outfitting and guiding opportunity exists and there is sufficient competitive interest, there will be a request for information outlining the main features of the business and operation.

Relinquishment Form - Notarized form signed by the seller relinquishing all rights to outfitter business or portion of outfitter business that is being sold.

Responsible Official -A representative of an agency authorized by that agency to take specific administrative action.

Sales Agreement or Contract of Sale - Contract that transfers ownership of the outfitting business and legally binds the buyer and seller to certain terms. Contract must include a list of assets.

Sole Proprietor - A type of business option where the outfitter is the sole entity. A sole proprietor receives a guide license, if they intend to guide, and are qualified, at no additional charge.

Staff - Employees of IOGLB other than the Executive Director.

Stock - Sum of money invested in an outfitting company.

Stock Sell or Transfer - Outfitting business may sell or transfer all or part of the stock invested in the company.

Zero Use - no or negligible use by an outfitter of his licensed activity unless the lack of use is due to an act of nature or season or hunting or fishing restrictions by a state or federal agency that limit the ability of the outfitter to seek and accommodate clientele.

All other definitions are available in IOGLB administrative rules on its website at www.oglb.idaho.gov .

ATTACHMENT 1

CHECKLIST FOR:

BUYING AND SELLING AN OUTFITTER BUSINESS

STEP 1

Seller initiates the process by notifying Federal or State Agency and IOGLB

Buyer provides to seller:

- ☐ Copy of the draft-operating plan including maps (MOU: Attachment #1)

Buyer and Seller:

Both Buyer and Seller meet with Federal or State Agency (Identify needed info/identify and work through any needed changes). A draft sales agreement may be required at this time to verify legal transfer of assets and business viability.

- ☐ Draft Sales Agreement

STEP 2

IOGLB – AGENCY Consultation Occurs

1. Identify any additional information needs.
2. Identify any proposed changes to existing operation.

STEP 3

Buyer and seller submit separate Land Manager's Statement to Federal or State Agency with the top portion complete.

- ☐ Preliminary Land Manager Statement(s) (OG-6) signed by Federal or State Agency and Selling Outfitter/Proposed Buyer

STEP 4

Buyer submits to IOGLB:

IF BUYER IS A NEW IDAHO OUTFITTER

- ☐ New Outfitter Application for Sole Proprietor (OG-1) or
- ☐ New Outfitter Application for Corporation, Firm, Partnership or other Business Entity (OG-2)
- ☐ Designated Agent Application (OG-3) must accompany an (OG-2) form
- ☐ Operating Plan (OG-7)
- ☐ Preliminary Land Manager Statement (OG-6) (allows OGLB to take the application)
- ☐ Final Land Manager Statement (OG-6)
- ☐ Private Land Manager Statement (OG-10)
- ☐ Lease Agreement (if on private lands)
- ☐ Maps supplied by permitting agency with area outlined on map if not already existing with OGLB
- ☐ Written area description if not already existing with OGLB
- ☐ Verify Idaho Fish and Game Units

- ☐ Idaho State Police Criminal Background check form
- ☐ Outfitter Financial Statement (OG-8)
- ☐ Document Release Authorization Form (OG-14)
- ☐ Required Appropriate Application and Licensing Fees
- ☐ Signed Sales Agreement
- ☐ Corporate Documents filed with Secretary of State if a business entity
- ☐ Ownership breakdown (business entity)
- ☐ Outfitter Exam (sent to outfitter after application fees are paid)
- ☐ Allocated Tags associated with sale of business (if any)
- ☐ Unsigned relinquishment form from seller (OG-13) No need to notarize until final copy is requested.

IF BUYER IS AN EXISTING IDAHO OUTFITTER

- ☐ Outfitter Amendment Request (OG-9)
- ☐ Outfitter's Operating Plan (OG-7); this plan needs to indicate how the purchase will be incorporated into existing operating plan
- ☐ Preliminary Land Manager Statement (OG-6) signed by Federal or State Agency
- ☐ Financial Statement (OG-8)
- ☐ Required Appropriate Amendment Fees
- ☐ Unsigned relinquishment form from seller (OG-13). No need to notarize until final copy is requested.

STEP 5

- ☐ Final Sales Agreement (Federal/State Agency and IOGLB joint review)

STEP 6

Both Buyer and Seller may expect contact by the IOGLB or the Federal or State Agency to clarify items in sales package (no action required by buyer or seller unless contacted with request).

STEP 7

Assuming positive determinations:

Buyer Submits

- ☐ Bond (OG-12) \$10,000
- ☐ Liability \$100,000 per occurrence \$300,000 aggregate
- ☐ Appropriate License Fees
- ☐ Associated Certified Training Forms (OG-11), (OG-15), (OG-16), (OG-17) for guide license

Seller Submits

- ☐ Signed and Notarized Relinquishment Form
- ☐ Use Reports completed to date of sale

If this is a partial sale, the seller must also submit an amendment request to IOGLB to remove that portion of the sale from their license and operating area with associated fees, along with a signed OG-6 Land Managers Statement.

Application process is complete and License and Permit are issued.

New Outfitters Purchasing A Business

- ☐ OG-6 Land Managers Statement Preliminary
- ☐ OG-6 Land Managers Statement Final
- ☐ OG-10 Private Land Managers Statement
- ☐ Lease Agreement
- ☐ Map (s)
- ☐ Written Area Description
- ☐ Verify Idaho Fish and Game Units _____
- ☐ OG-1 Outfitter Application for Sole Proprietor (Notarized)
- ☐ Idaho State Police Criminal Background check form
- ☐ OG-2 Outfitter Application for Business Entity (Notarized)
- ☐ OG-3 Designated Agent Application (Notarized)
- ☐ Idaho State Police Criminal Background check form
- ☐ Outfitter Application Fees
- ☐ DA Application Fees
- ☐ OG-7 Operating Plan
- ☐ Allocated Tags associated with sale of business _____
- ☐ Sales Agreement **Buy Sale Only**
- ☐ OG-8 Financial Statement
- ☐ Corporate Documents (business entity)(Secretary of State)
- ☐ Ownership Breakdown (business entity)
- ☐ OG-14 Document Release Form
- ☐ OG-12 Performance Bond
- ☐ Liability

- ☐ Outfitter License Fees
- ☐ DA License Fees
- ☐ Outfitter Exam

For Guide License Only (If Outfitter /DA will guide)

- ☐ OG-11 Training Log for River Guide License Only
- ☐ OG-15 Certified Hunting Guide Training Form (Hunters)
- ☐ OG-16 Certified Snowmobile Guide Training Form -
- ☐ OG-18 500 Mile Log for River Outfitters
- ☐ OG-19 Ski Guide Check List-
- ☐ OG-20 Ski Outfitter Check List

Existing Outfitter Purchasing A Business

- ☐ OG-6 Land Managers Statement Preliminary
- ☐ OG-6 Land Managers Statement Final
- ☐ OG-10 Private Land Managers Statement
- ☐ Lease Agreement
- ☐ Map (s)
- ☐ Verify Idaho Fish and Game Units
- ☐ Written Area Description
- ☐ Allocated Tags associated with sale of business _____
- ☐ OG-9 Outfitter's Amendment Request
- ☐ Major Amendment Fee (Outfitter)
- ☐ Minor Amendment Fee (DA)
- ☐ OG-7 Operating Plan
- ☐ Draft Sales Agreement **Buy Sale Only**
- ☐ OG-8 Financial Statement

☐ OG-14 Document Release Form

☐ OG-19 Ski Guide Check List-

☐ OG-20 Ski Outfitter Check List

For Guide License Only (If Outfitter /DA will guide)

☐ OG-11 Training Log for River Guide License Only

☐ OG-15 Certified Hunting Guide Training Form (Hunters)

☐ OG-16 Certified Snowmobile Guide Training Form -

Existing Outfitter Selling Partial or Full Business

Partial Sale

☐ Time Log

☐ OG-6 Land Managers Statement Final

☐ OG-9 Outfitter's Amendment Request

☐ Minor Amendment Fee

☐ OG-13 Relinquishment Form (Notarized)

☐ Use Reports

☐ Allocated Tags associated with sale of business _____

☐ Verify Idaho Fish and Game Units

Full Sale

☐ OG-13 Relinquishment Form (Notarized)

☐ Use Reports

☐ Allocated Tags associated with sale of business _____

☐ Verify Idaho Fish and Game Units